

Approved as Submitted: July 7, 2004

**CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT
AND SPECIAL CITY COUNCIL MEETING
MINUTES – JUNE 23, 2004**

CALL TO ORDER

Chairman/Mayor Kennedy called the special meeting to order at 7:05 P.M.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Tate and Chairman/Mayor Kennedy
Absent: Agency/Council Member Sellers

DECLARATION OF POSTING OF AGENDA

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Chairman/Mayor Kennedy led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented a Certificate of Recognition to Kelsey Hendricksen, a 6 year old Morgan Hill girl who successfully called 911 to summon rescue personnel to save her father's life.

CITY COUNCIL SUB-COMMITTEE REPORT

None.

CITY MANAGER REPORT

City Manager Tewes stated there was no report this evening.

CITY ATTORNEY REPORT

City Attorney Leichter stated there was no report this evening.

OTHER REPORTS

None.

PUBLIC COMMENT

Council Member Tate asked the public to join in the 4th of July festivities being planned by Independence Day Inc. for Morgan Hill. He asked anyone who is interested in being a volunteer to contact Jennifer at IDI and offer their help, stating that there is a need for more volunteers to make the Morgan Hill 4th of July celebration another great success this year.

Mayor Kennedy reported that he had learned from Bob Hunt, who works with the organization of the parade, that Morgan Hill has now surpassed Redwood City in having the largest number of parade entries in the Bay Area. The Mayor stated he is very proud of this parade, and encouraged all citizens to support it and make it a success once again.

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered, and the public comment was closed.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Agency Member Carr, the Agency Board unanimously (4-0, with Sellers absent) **Approved** Consent Calendar Items 1-3, as follows:*

1. **MAY 2004 FINANCE & INVESTMENT REPORT.**

Action: ***Accepted** and **Filed** Report.*

2. **APPROVAL OF 2004-2005 SOUTH COUNTY REGIONAL WASTEWATER AUTHORITY (SCRWA) BUDGET.**

Action: *1) **Approved** the 2004-2005 SCRWA Budget; and 2) **Adjusted** the Adopted 2004-2005 City of Morgan Hill Sewer Operations and Sewer Impact Budgets as Detailed in Exhibits A and B.*

3. **CONSULTANT AGREEMENT WITH BENCHMARK.**

Action: ***Authorized** the Executive Director to Execute a Consultant Services Agreement with Benchmark for Fiscal Year 2004-2005 in an Amount not to exceed \$402,500 to Provide Project Management Services and Lead Testing for Housing Improvement Programs, Subject to Review and Approval by City Attorney.*

Redevelopment Agency and City Council Action

CONSENT CALENDAR:

Action: *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Carr, the Agency Board/City Council unanimously (4-0, with Sellers absent) Approved Consent Calendar Item 4, as follows:*

4. **AGREEMENT FOR OUTSIDE LEGAL COUNSEL (RICHARDS, WATSON & GERSHON).**

Action: **Authorized** *the Executive Director to Execute Consultant Agreement for Legal Services in FY 2004-2005 with Richards, Watson, and Gershon in the Amount of \$54,000, Subject to Review and Approval by City Attorney.*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (4-0, with Sellers absent) Approved Consent Calendar Items 5-9, as follows:*

5. **RESOLUTION SUPPORTING GRANT FUNDING FOR A COYOTE CREEK TRAIL CONNECTION PROJECT. Resolution No. 5815**

Action: **Adopted** *Resolution Supporting a Coyote Creek Trail Connection Project as the City's 2004-2005 Transportation Fund for Clean Air Regional Fund Project Candidate.*

6. **FINAL MAP APPROVAL FOR SAN PEDRO VILLAS (TRACT 9587).**

Action: 1) **Approved** *the Final Map, Including the Abandonment of an Excess Portion of Cory Drive;* 2) **Approved** *the Subdivision Agreement and Improvement Plans;* 3) **Authorized** *the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and* 4) **Authorized** *the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.*

7. **REJECT BIDS FOR SIDEWALK CONSTRUCTION ON THE NORTH SIDE OF EDMUNDSON, WEST OF MONTEREY ROAD.**

Action: **Rejected** *Bids Received on May 19, 2004 for the Sidewalk Addition on Edmundson West of Monterey Road and Authorized Staff to Rebid the Project.*

8. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 9, 2004.**

9. **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 11, 2004.**

Redevelopment Agency and City Council Action

CONSENT CALENDAR:

Action: *Because Agency/Council Member Sellers was absent from the meeting, and due to a potential conflict of interest issue on Item #10 for himself and Agency/Council Member Chang, Chairman/Mayor Kennedy **invoked the Rule of Necessity**. A coin was flipped, and Mayor Kennedy was selected to recuse himself from the vote on this item. He left the Council Chambers during the vote on Item #10.*

Action: *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Chang, the Agency Board/City Council unanimously (3-0, with Sellers and Kennedy absent) **Approved** Consent Calendar Item 10, as follows:*

10. AWARD OF CONTRACT FOR 2003-2004 PAVEMENT RESURFACING PROJECT.

Action:

Acting as Redevelopment Agency: *Resolution No. MHRA-252*

1. **Adopted** *Resolution Approving Payment by the Agency for All or Part of the Cost of Certain Street Improvements Which Benefit the Ojo De Agua Community Development Project.*

Acting as City Council: *Resolution No. 5816*

2. **Adopted** *Resolution Approving Payment by the Morgan Hill Redevelopment Agency for All or Part of the Cost of Certain Street Improvements which Benefit the Ojo De Agua Community Development Project.*
3. **Appropriated** *\$125,000 From Current Year Unappropriated Street Fund Balance (202) for this Project.*
4. **Awarded** *Contract to Silicon Valley Paving, Inc. in the Amount of \$557,205.10 for Construction of the 2003-2004 Street Resurfacing and Reconstruction Project, Subject to Review and Approval by City Attorney; and*
5. **Authorized** *a \$55,720.00 (10%) Construction Contingency.*

City Council Action

PUBLIC HEARINGS:

11. ORDINANCE AMENDING SECTIONS OF THE MUNICIPAL CODE REGARDING PURCHASING. *Ordinance No. 1684, New Series*

This item was heard out of order, after items 13 and 14, because the public hearing portion of the meeting had to wait until 7:30 P.M. to in order to conform to the public hearing notice. The public hearing on this item was begun at 7:35 P.M.

Assistant to the City Manager Dile presented the staff report as provided in the agenda packet.

Chairman/Mayor Kennedy opened the public hearing.

No comments being offered, the public hearing was closed.

No discussion by City Council.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (4-0, with Sellers absent) **Waived** the reading in full of the Ordinance amending sections of the Municipal Code regarding purchasing.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Ordinance amending sections of the Municipal Code, by title only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 3.04 (PURCHASING) OF TITLE 3 (REVENUE AND FINANCE) AND DELETING SECTIONS 3.04.320, 3.04.330, 3.04.340, 3.04.350, 3.04.360, AND 3.04.410 OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING LOCAL PREFERENCE, THRESHOLD AMOUNTS FOR BID, RECYCLED PRODUCTS, EMERGENCY EXEMPTIONS, AND DONATION OF UNUSABLE MATERIAL, by the following roll call vote: AYES: Carr, Chang, Kennedy, Tate; NOES: None; ABSTAIN: None; ABSENT: Sellers. Ordinance No. 1684, N.S.*

City Council Action

OTHER BUSINESS:

12. REPORT OF THE COUNCIL SUBCOMMITTEE ON THE LIBRARY PROJECT SELECTION

City Manager Tewes presented the Report of the Library Subcommittee on the Library Project Selection as provided in an agenda packet supplement. He stated that he had prepared this report on behalf of the Subcommittee Members Kennedy and Tate based on the discussions and recommendations of the Subcommittee, but that they had not had an opportunity to review the final report prior to distribution.

He stated the four recommendations listed under the Subcommittee Report's Implementation Plan for consideration by the City Council this evening are:

1. **Recommend** the City Manager prepare the appropriate analysis and findings for the Council to consider an increase in the Library Development Impact Fee.

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2. **Recommend** that the City Manager analyze the alternative project management model and prepare recommendations for the Council to consider on how to obtain the services of a qualified construction management firm and architect.
 3. **Recommend** that the City Manager initiate discussions with the property owner of the downtown site leading to a future Owner Participation Agreement or other appropriate agreements. Those discussions should include:
 - Environmental review
 - Preparation of an overall master plan for the Sunsweet property
 - Preparation of a parking plan including “offsite” opportunities
 - Design review of all the elements of the master plan
 - Establishment of the “library parcel” and the possible use of adjacent RDA land
 - A schedule for construction of the library, the retail/office, and housing components
 - Business terms for a ground lease and for use of the adjacent RDA land
 - Consideration of the appropriate amendments to the Downtown Master Plan to accommodate the Downtown Library Project.
 4. **Recommend** that the City Manager report back on the progress on those discussions no later than October 27, 2004, by which time it will be known whether the larger library project at the Civic Center will have received State funding.

Mr. Tewes stated that the Subcommittee studied all proposed sites and decided that the most viable possibilities were the Civic Center site and the Sunsweet site. He stated that it is difficult to compare the two sites on an equal basis because of the greater amount of attention and preparation work that has already been done on the Civic Center site during the grant application process, but the report provides the Council with a viable comparison of the two sites with the information that is currently available. After much deliberation, including the due consideration of community and Library Commission input on the preference for the Civic Center site, the proposal being recommended by the Subcommittee for Council approval is the downtown Sunsweet property site. The Subcommittee came to the conclusion that the negative issues raised regarding the downtown site could be mitigated with careful planning and budgeting of funds. Further details supporting their recommendation and the next steps that need to be taken are contained in the Subcommittee’s report.

Mayor Kennedy thanked Council Member Tate, City Manager Tewes and the members of the Library Subcommittee for all the hard work that has gone into finding a way to build a new library in Morgan Hill. He stated that the good news is we have found a way to build a new library in spite of not receiving state grant funds. He also stated he is recommending the Council take no action this evening in order to allow the absent Council Member Sellers an opportunity to participate in the decision on this matter. Delaying the vote will also give all Council members time to digest the information provided by the Subcommittee, receive community input, and get answers to any questions they may have before they are asked to make a final decision on the site selection.

Council Member Tate stated that as a member of the Library Subcommittee, he is very interested in hearing from the public this evening, and would like to make his full comments after that has occurred. He stated his reluctance to put off the vote because at the Council's retreat the stated policy was that a goal for this project would be adopted by July 1; and he was refused when he requested an extension on this deadline. He does not expect the Council to hold off on decisions when he is absent, and is ready to move forward tonight with a decision in order to meet the goal deadline set by Council.

He further stated that he wanted to clarify some items in the current library plan recommended by the Subcommittee:

- The facility has been reduced in size from 30,000 sq. ft. to 28,000 sq. ft.
- There will be no community room.
- The supposition, based on the best information he has available, is that we will not receive grant funding in the third round application currently under consideration by the State, and to be decided in October.
- We currently only have preliminary information on the downtown site, but the challenges of this site can be overcome with proper planning.
- Downtown is more centrally located for all the students in the community.
- The Community and Cultural Center's (CCC) location in this neighborhood has demonstrated that the safety issues raised have not been a problem, and that the increased activity of adding the library to the area will lend itself to an even higher level of safety in the neighborhood.
- Extra funding will be allotted towards solutions for the issues of traffic circulation and parking that will benefit the entire downtown.
- He is confident that the award winning County library staff will be able to come up with a creative solution to the issue of a 2-story building requiring additional staffing.
- The diversion of \$7 million from the flood control is reasonable because, based on his many years of experience with the water district, they consistently have stated that the PL566 project will be completed at least "10 years from now", and have always maintained that 10 year horizon. This money is currently just sitting and waiting for their completion of PL566, and could be put to a much better use right now in providing the community with a much needed new library facility.

Mayor Kennedy opened the public comment. He noted that he had a very large number of speaker cards, and requested that speakers with duplicate comments consider limiting their remarks to a statement of reinforcement of previous comments already made.

Citizens' comments are summarized as follows:

Mr. Brad Jones:

- His home is centrally located between both sites, so feels he has no prejudice in that regard.
- Council needs to get as much value for the dollar as possible.
- Downtown site is more central, more visible, and closer to the Community and Cultural Center where meetings can be easily booked in conjunction with the Library use. Also close to the train station for access.

- Objects to placing an increase of 2 to 3 times the traffic on the streets of the civic center site.
- Wants the library open more than it is now.
- As a downtown business owner, feels downtown is the most logical place for the library, even though he is not sure what kind of an impact it will have on his bookstore business.

Mr. Bob Martin:

- Spoke as a member of the Economic Development Subcommittee, and stated that the EDC would like to see a study done of which location would most enhance the local economy and increase of tax revenues.
- In other cities where such a facility has been located downtown the results have clearly been a very positive impact on the local community.
- Libraries serve as a catalyst to spur the economy where they are located, and increase the growth and development of neighborhoods around the libraries; and he cited Chicago and Mt. View as examples.
- The EDC position is that a vital downtown is critical to the health of downtown Morgan Hill.

Mr. George Nale:

- Spoke as a member of the Library Commission, stating that their top priority is to get the library built, and now is the time to accomplish that because money is available and the current City Council is in favor of moving forward on the project.
- If Sunsweet site is chosen, so be it, but the principal consideration of the Library Commission was location and, after much review, they recommended the Civic Center location.
- The Library Commission felt there were too many “ifs” associated with locating somewhere else.
- The current, and previous, surveys of the community have all shown substantial support for the Civic Center site.
- The downtown site might be good for business, but literacy is what really matters in this instance.
- School children need to be able to access the library without having to cross in heavy traffic areas.
- No other site has as safe or easy access as the Civic Center site.
- Civic Center site has public support and acceptance, and an operational efficiency in its design.

Rocke Garcia:

Mr. Garcia thanked the Council for their consideration of the Sunsweet property, and introduced a team which has been assembled to provide information on their concept for the Sunsweet site library project: Blair Barry of Barry & Volkmann Architects; Mark Schatz of Field Park Architects; Bill McClintock of MH Engineering; Greg Ing, landscape architect; and Chuck Toeniskoetter.

He cited 7 reasons to build the library at the downtown site:

- People – more citizens will benefit from the downtown location.
- Money – An innovative public/private partnership will get the library built at a lower cost.
- Speed – a streamlined design/construction process will enable citizens to enjoy the library sooner.
- Location – a safe, geologically sound, central location near mass transit with more than adequate parking will attract more users.

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- Business Friendly – A downtown location is good for business, will attract more businesses, and generate more tax revenues.
 - World Class Design/Local Development – The combined skills of a world class library architect and local developer will result in a premier two-story facility that meets local needs.
 - Civic Pride – The reality of a first class library at the Sunsweet site will continue a tradition of centrally located services; and, combined with the Community and Cultural Center and Playhouse, will generate massive civic pride.

Mr. Blair Barry:

- The Library on Depot will engage both Depot Street and 3rd Street, and this mixed use will draw pedestrian traffic off Monterey to walk through the retail uses on their way to the Library.
- The 30 foot promenade will provide a good gathering place for pedestrians to enjoy the shaded walk and the benches.
- Allows the closure of 3rd Street for street fairs and the Farmer's Market, as well as other community events.
- Provides parking for approximately 80 cars in the center and 85 cars necklaced around site.
- Provides 40 residential units off of 4th Street, bringing new residents to engage in and bring activity to the site.
- High visibility and dynamic design on the corner of Depot and 3rd Street.
- Courtyard at rear of library provides additional uses for now and space for expansion in the future.

Mark Schatz:

- The plans have been changed in response to comments they had received, and to make it more of a part of the Downtown Plan.
- Has worked on library projects for 14 years, and built over 20 libraries. His experience is that the library has proven to be a viable anchor tenant that brings life and vitality to the area.
- The downtown site has synergy with the CCC and the train depot.
- This is only a first draft of the proposed design. Can increase self-service of patrons to address circulation issues and eliminate the need for a 2nd floor librarian.

Chuck Toeniskoetter:

- Explained the concept of “multiple prime” type of construction, which allows the incorporation of builder information in the design process to keep the project on schedule and under budget when construction begins. This technique is very popular with public agencies. He has done 65 to 70 projects of this type, completing them on schedule and under budget. He is pleased that Morgan Hill is considering this approach to the Library construction project.
- He believes that a downtown library would be in accord with the plans for cultural development of Morgan Hill that this Council has been working toward.
- The Library in downtown San Jose has spurred a great deal of downtown activity, and he believes the same would happen in Morgan Hill.

Cindy Webenbauer:

- Her family has lived in Morgan Hill for 30 years, and she plans to stay. She has been hearing a lot said about the economy, but not very much about what the residents of the community want.
- Stated that as a parent of young children, she does not want the library moved downtown, but likes it where it is.
- Does not feel the economy of Morgan Hill should be the issue considered in this matter, and asked the Council not to sacrifice the community's desires in order to bolster the economy of Morgan Hill.

Nancie Barker:

- The unique geography of Morgan Hill must be considered - on the east side of we have railroad track, and on the west side we have a large hill. It is already difficult to park in the downtown area, and the new restaurant moving into the old Police Department building will be adding to this problem.
- When she goes to the library, she is not going to mix this trip with other errands. Don't sacrifice the library for the economy.
- The library fills a great need for those who cannot afford to purchase books or computers.
- Concerned about the leasing of the land and the large balloon payment due at the end of the lease.
- Concerned about the possibility of future expansion.
- The Farmer's Market already takes a lot of parking in the area, and adding the library would be a detriment.

Marc Minkus:

- Employee at Hospira Inc. (formerly Abbot Labs). Abbott had a corporate library, but that is no longer in existence, so he envisions that his company's employees will need to make use of the public library system. The downtown site would be much more convenient for them as a business entity.
- As a resident of Morgan Hill, who moved from a suburb of Chicago, he stated that libraries there are always in the business areas, and close to the train stations. This has proven to be very convenient.

Chuck Dillmann:

- Spoke as a resident and not as a member of the Library Commission.
- Reported that there is another bill that has been introduced as a successor to Proposition 14 in order to give those who do not receive Prop. 14 funding an opportunity to apply for another grant.
- The reduced size of the proposed library will disqualify us for grant funding.
- The larger sized library had been determined to be the size needed to meet the needs of the future population.
- The rush to get this accomplished in 6 months has forced the choice down to these two selections. While it may be best to place it in downtown, this site may not be the best place in downtown; and other downtown areas, such as south of Dunne, should also be considered.

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- Site should be chosen to cure blight, and the areas across from the CCC could use blight improvement much more than the Sunsweet site.
 - The library was previously part of the integrated plan of the civic center and that issue needs to be settled before the final decision is made on the location of the library.

Andrew Poth:

- Morgan Hill resident since 1967, and feels the Sunsweet location is a lousy choice for the library because of the railroad tracks being so close. The noise would be a great distraction to those who come to the library.
- The location is also very congested and parking would be a big problem.
- Supported what earlier speakers have said about when they go to the library they are not interested in going to other businesses.
- The final decision on the location should be put before the voters.

Rosy Bergin:

- Change is difficult, and it is easier to maintain the status quo, but the downtown site is an opportunity to provide greater good for the same dollar amount.
- Makes the library accessible to more schools.
- Parking is already available at the train depot, the Grange, and the CCC; and the additional 120 spaces will provide additional downtown parking.
- This is an efficient use of the land.
- Mass transit will reduce the need to drive cars into the area.
- Will bring more shopping opportunities and provide housing to those who want to live downtown.
- Will eliminate the current blighted neighborhood.
- Increased activity will eliminate crime.

Dan Craig:

- Speaking on behalf of the Morgan Hill Downtown Association (MHDA), which fully supports this mixed use of the Sunsweet site; and agrees with the Council Subcommittee's statement that the project should be a part of the Downtown Plan because it will be good for both the downtown and the library.
- Compromises need to be worked out, but why not put it where it will bring economic development and benefit.
- The downtown is starting to improve, and there are new property owners being drawn there, because of the investments the City has made into the downtown area,
- Competition is not standing still (i.e., Coyote Valley development, Gilroy's development), and this project could jumpstart growth and be a catalyst to draw people downtown.
- The library would be a great accompaniment to the CCC and the coming courthouse.
- Strongly urged the Council to support the Sunsweet site.

Stacy Marr:

- Urged the placement of the library downtown. It incorporates many of the goals of the city, such as housing, foot traffic and growth.

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- Implored all citizens to look at this with a long-term vision. As the downtown goes, so goes the rest of the city; so we all have a vested interest in a thriving downtown.
 - Make the downtown a true “hub” of the city. With all the improvements and functions going on downtown, this proposal makes the most sense.
 - Main library branches are always located in the downtown areas.
 - Urged the Council to cement the heart of the city and give a centerpiece that would go hand and hand with the CCC.
 - Change is difficult and scary, but implored the Council to adopt the long term vision that this is not just an economic decision, but will make us a world class city.

Gary Walton:

- Agreed with the Subcommittee Report and the comments made by Council Member Tate.
- This is an opportunity for the city to get into a modern design for the downtown area.
- This could be an award winning project, and we need to keep up with the future.
- Suggested that CalTrans may be a source of funding to provide for additional parking areas in the downtown.
- Reminded that there were a lot of people against the saving and renovation of the Morgan Hill Elementary School, but now people are very supportive of it. If this is done right, he thinks this will be the same way and the community will be supportive.

Jerry DiSalvo:

- Reiterated all that has been said in favor of the downtown location, stating that it is not an “either-or” situation. Those who have said that they would only go the library and not elsewhere can still go to the library; but those who want to go to the library and also enjoy the downtown will be given that opportunity.

Marby Lee:

- Reiterated what others have said against the downtown site.
- Concerned about the traffic and parking, which is already very bad during the Farmer’s Market. Has seen a lot of cars that circle the area looking for a closer parking spot, and that is a concern with children walking in the area.
- Stated that her biggest frustration is feeling that the Council listens to the business interests but does not listen to the voice of parents and residents.
- Frustrated that the survey of citizens showed they wanted it at the civic center; and feels that the desires of the community members are continually disregarded in decision making processes.

Marlene Amerian:

- Favors downtown site.
- Wants to see Morgan Hill developed as a cultural hub.
- Feels the Sunsweet site is an opportunity to bring a sense of history and identity to Morgan Hill. This is an historical location where in 1850 there was a Farmer’s Union; and the Sunsweet property is where our agricultural history began. This is a history that most people are not aware of, and this provides an opportunity to bring this information to the citizens.
- Proposed designing the entry gates as a means to convey some of this historical information.

Charles Cameron:

- He stated he has no economic interest in this matter, but is only interested as a frequent user of the library.
- Feels that Mr. Garcia has done a good job in promoting his site, and the basic attraction of this site is the synergism with downtown. But, when he goes to the library, the downtown is not part of his plans; and when going downtown, the library is not part of his plans. The two don't mix.
- Operational costs for a two-story library will be higher.
- Additional parking creates additional costs to the city.
- The Library Commission and the polls recommended the civic center site, and he feels strongly that this is the safest site for people walking, driving, or biking to the library.

Mayor Kennedy closed the public hearing at 9:00 P.M. after the last speaker.

Council Member Tate stated he wanted to first address the fact the public poll indicated a preference of two to one for the civic center site. He wanted to be clear that it would be very easy for him to go out and poll the public on every issue and do exactly what they tell him to do; and he was elected to represent the people the way they want to be represented. He has struggled with that on this issue, and had come to the conclusion that to be true to himself and those he represents, he need to do what he believes is best for the city. If the decision is made to build the library at the civic center site, he would be totally fine with that because it will work here and do what it has done for years here, it will be expanded and he will totally support such a decision if that is the way the Council decides to vote.

His reasons for choosing the downtown site are based on what will get people to use the library, and instead of looking at who is going to go downtown to use something else, he is looking at who is downtown that is going to use the library. According to all he has heard, the best place to put the library to get it used is to put it in a mainstream location such as downtown because that gets more users into the library. This allows the library to do what it is intended to do, which is to serve the greatest number of people.

He referred to the General Plan statement regarding maintaining the small town atmosphere of Morgan Hill. His desire is to maintain the quality of life and small town atmosphere that everyone loves about Morgan Hill, but does not feel that is preserved by keeping everything exactly the same. Growth will occur and changes have come and will continue to come; and in order to preserve that sense of community that gives Morgan Hill its special flavor he feels that we need to focus on the downtown as the way to make that happen. The more functions that can be put downtown, while overcoming all the problematic issues such as parking, the more we enhance our sense of community.

He stated that the Downtown Plan begins with the comment that the downtown should be strengthened as the social and activity heart of Morgan Hill. The growth that is occurring in the downtown so far is all moving toward this goal of enhancing the gathering and social nature of downtown and making it the "heart" of the city. In contrast, when he considers the library, he sees it, not as a place for social activity, but as a place for quiet contemplation and more individual quiet time, which is more like the "soul" of the city. Enhancing both the heart and the soul of the city seems very synergistic to him.

Though not quantifiable, they are reasons that he is unable to escape from. The choice of a mainstream site such as this that enhances its use as a library, complements the General Plan to preserve our small town atmosphere, and enhances the Downtown Plan at the same time goes a long way with him. In addition, it is truly a redevelopment project in the downtown, while building it at the civic center would not be addressing a blighted area. The Sunsweet site really ties together several areas of the downtown that are currently being developed. Downtown is a good place for the library because it's the place where the library will get the most beneficial use from our patrons.

Council Member Chang noted that the downtown site provides an additional 120 parking spaces, and wanted to know how many spaces are provided in the civic center plan.

City Manager Tewes responded that the plan shows a number of parking spaces in the high 80's with expansion to 120. He noted that is not the issue before the Council for a decision this evening, and that Council is not being asked to adopt this plan or even this development team. There is still a great deal of coordination that needs to be done. The parking issue will be specifically addressed during the future planning. The Subcommittee Report simply indicates that there is money available to fix the problem, and the details of that will need to be worked out.

Council Member Carr noted that his interpretation of the Subcommittee's recommendation is not to simply build the library on the Sunsweet site, but here is the location and now let's think about master planning that site and addressing some of these issues that are being brought forward. And as part of the recommendation, funding ideas are presented on how to do the planning on that site.

Mayor Kennedy and Council Member Tate concurred that they were saying here is the money, now let's go and solve the downtown parking problem, not just for the library but for the entire downtown; and they are able to do that without taking away from the \$3 million set aside for downtown projects.

Council Member Carr asked for clarification on whether the increase to the library impact fee would be on new development only, and whether there is currently an impact fee charged for development in the unincorporated areas that Morgan Hill serves.

City Manager Tewes responded that the library impact fee is only charged on new residential development. He also stated that there is not an existing impact fee charged for unincorporated areas; but fairness dictates that when development occurs in the unincorporated areas which impacts on the Morgan Hill library, then that development needs to pay for that usage impact.

Council Member Carr asked why the square footage was set at 28,000 square feet.

Council Member Tate responded that the Subcommittee felt that doubling the size of the current library to 28,000 square feet would provide adequate library service for some period of time.

Mayor Kennedy thanked everyone who spoke and provided input, stating that the Council is very appreciative that they took the time to provide well prepared and thoughtful presentations to the Council about this issue. One of the reasons this item is under consideration is that there was a lot of concern

expressed that the library project would not be done, and the Council wanted to make sure that the library project does proceed. With respect to Council action, he stated that though he would like to see a start made on the implementation plan in the Subcommittee report, because of the mention that was made of a new bill being introduced to provide additional library grant application opportunities to the losers of the 3rd round Prop 14 grant applicants, he is not sure the Council has all the information needed to make a decision this evening.

Council Member Tate responded in regard to the potential for additional state grant funding, that he has been told that this bill has been suspended, and is not likely to resurface for several years.

Mayor Kennedy noted that he has received word from the Library Authority staff that it is unlikely that Morgan Hill will be successful in the 3rd round of grant funding, and that is why the Subcommittee wanted to move forward on this proposal.

Council Member Tate concurred, stating that the results will be available in October, and if we are lucky enough to receive the grant funding, we could stop everything we are doing here and build the grant application facility on the civic center site; but it is unrealistic to think that this will happen.

Council Member Carr responded to the Mayor's earlier comment that we should wait until Council Member Sellers has an opportunity to participate in the decision on this matter, and though he appreciates that respect for his colleague, he is ready to move forward tonight. The Council had made a commitment to the community to make a decision in June on a site location and a funding plan; and though both of these still need more work, the way to get that work done is to make some decisions. He thanked the speakers and those who e-mailed, called, and wrote for their comments on this difficult decision before the Council. He also thanked the Subcommittee for their hard work and the great amount of time they invested in this issue to help the Council with the decision.

He continued, stating that this community has had a focus on life-long learning and literacy and has been demonstrated through a strong support of the library; and his hope that this excitement and support will continue as the Council makes their decision on this issue. He is a parent of two small children, who frequently walks to the library. He feels the downtown site is safe and wholeheartedly supports the downtown site, the recommendations of the Subcommittee, and the very articulate comments made earlier by Council Member Tate about that site. He stated that this is an opportunity for the Council to be bold and innovative with a decision tonight. All things being equal, why would we not want to implement other policy positions that we have as a Council. He is aware that all things are not exactly equal between the two sites, but he believes the functionality of the library can become equal.

He remarked that parking was something that everyone talked about, and in the report this is addressed in an innovative manner that would be beneficial to the entire downtown. Regarding the comment that the library is being sacrificed on behalf of the downtown economy, he assumes that these comments are referring to the safety of the library being sacrificed in the areas of traffic, pedestrian access and those types of issues. If those are issues for the library being located downtown, then they are issues that exist for downtown itself and those issues need to be addressed regardless of where the library is located. He

believes that the library helps to solve these problems, and that the suggested plan can be improved even further to address these issues making the area safer for everyone.

The location of the railroad tracks and noise from trains may still be an issue, but he does not feel that this is about safety because of improvements that have already been implemented by this Council.

He is very concerned and disappointed that there were comments made implying that the Council does not listen to the community voice. The five Council Members have to keep the entire city and community in mind, and not just one area of the city or one neighborhood. With that in mind, he feels that the downtown site, with proper master planning and improvements, will be the best direction for all of the community. There are still obviously lots of details to be worked out to make this work, but he is in favor of pursuing this in the same manner as the model being used with the restaurant at the old Police station building. He favors choosing an operator and giving them a window to allow exclusive negotiations to make sure that this is the right project for us, that all the issues are addressed and that the city wants to move forward. He feels that is implied in the recommendation before the Council with a date for that to come back, and he would support that recommendation tonight.

Council Member Chang stated that she clearly remembers that Council Member Sellers would like to have a chance to talk about this subject, and since this is a very important decision she feels that he should be given that opportunity. She likes the downtown site and feels that is it a good thing for the economic growth; but is uncomfortable with the fact that polls show that two-thirds of those who responded prefer the civic center site, and the Library Commission has also recommended that site. She stated that she would like to have some time to evaluate this. She is elected to listen to and serve the people the best she can; and though she personally feels that the downtown site is right, she needs time to think about it and wants to give Council Member Sellers a chance to provide his view; so, therefore, she will not be able to vote on this tonight.

Mayor Kennedy asked the City Manager if there is a way to start the process going so we don't lose time, but yet not take formal action on site selection until Council Member Sellers returns.

City Manager Tewes responded that the first and second recommended actions listed under the Implementation Plan portion of the Subcommittee Report are not site specific, and need to be done no matter which site is chosen. The analysis of the impact fees, the analysis of the alternative project management model, and provision of recommendations on how to obtain the services of a qualified construction management firm and architect could all proceed without a site being designated. The third and fourth recommended actions of the Implementation Plan are site specific, and there will need to be clear direction before proceeding with those items.

Mayor Kennedy suggested that the Council authorize the staff to proceed with the first and second actions listed under the Implementation Plan portion of the Subcommittee Report, and that the formal decision on actions three and four of the Implementation Plan be postponed until Council Member Sellers is present. This gives the Council time to discuss this issue further with the community members, receive continuing input and explain why the downtown site was recommended by the Subcommittee.

Council Member Tate asked if when this issue is brought back before the Council if there is some way to avoid having to repeat what has already been covered this evening.

Mayor Kennedy responded that the issue would again be open to public comment again, even if the first and second steps were approved this evening.

Council Member Carr requested that, if this item is continued, it not be placed on the agenda of July 7, due to the fact that the agenda for that date is already very full and the Council does not want to shortchange any of the issues on that agenda.

Mayor Kennedy made a motion that the Council proceed with the first and second Implementation Plan actions, and that the third and fourth Implementation Plan actions be brought back for consideration at the meeting of July 21, 2004. The motion was seconded by Council Member Chang.

Council Member Tate thanked Council Member Carr for his eloquent support of taking a vote tonight, and stated that he would support the Mayor's motion because he thinks it is important that the Council act to give staff direction on this matter. He stated he is disappointed that the Council is not sticking to the previously established schedule to which he was required to conform at an earlier date.

Council Member Carr stated he does not want to lose a month of time, and does not want to hold up the Implementation Plan schedule by pushing this process back further.

Council Member Chang stated that she feels she is hearing the majority of the Council has already made their decision on this matter, but wants to extend the courtesy to Council Member Sellers because he has requested the opportunity to be heard on this issue.

Council Member Tate stated that this implies that any Council Member who is going to be absent from any meeting can ask that a decision be postponed until they return, and he expressed his disagreement with this philosophy.

Mayor Kennedy expressed his discomfort in acting on this important decision without all Council Members being present.

Council Member Chang stated that she feels this is a courtesy that would be extended to any Council Member if they asked.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Chang, the City Council (3-1, with Carr voting NO, and Sellers absent) **Approved**, and **Directed** staff to proceed with, the Library Subcommittee Report's Implementation Plan's First action, "that the City Manager prepare the appropriate analysis and findings for the Council to consider an increase in the Library Development Impact Fee", and its Second action, "that the City Manager analyze the alternative project management model and prepare recommendations for the Council to consider on how to obtain the services of a qualified*

construction management firm and architect”; and **Continued** any further Council action on the Library Subcommittee Report’s Implementation Plan’s Third and Fourth actions to the meeting of July 21, 2004.

13. CALL GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2004.

This item was heard out of order at 7:15 P.M.

City Manager Tewes presented the staff report as provided in the agenda packet.

Mayor Kennedy asked for clarification as to whether this schedule requires that all documents for a ballot measure be ready for Council approval on July 21, 2004.

City Manager Tewes stated that the Council has already scheduled a discussion of revenue development on the agenda for July 7, 2004 meeting.

Council Member Carr commented that he supports the adoption of the calendar, but noted that the work is really going to be cut out for the Council to accomplish everything needed in the time allowed, and the time constraints will limit the amount of public input that can be gathered.

Mayor Kennedy opened the public comment.

No further comments being offered, the public comment was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (4-0, with Sellers absent) **Adopted** the Resolution Calling for an Election to be Held on Tuesday, November 2, 2004 to Elect Mayor, Two City Council Members, City Clerk and City Treasurer. **Resolution No. 5817.***

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (4-0, with Sellers absent) **Adopted** the Resolution Requesting the Services of the County of Santa Clara Registrar of Voters and the Consolidation of the Election. **Resolution No. 5818.***

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (4-0, with Sellers absent) **Adopted** the November 2, 2004 Abbreviated Election Calendar.*

14. CENTENNIAL PLANNING COMMITTEE.

This item was heard out of order at 7:20 P.M.

Mayor Kennedy presented the staff report as provided in the agenda packet.

4.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Authority:	Government Code section 54956.9(a)
Name of Case:	Hacienda Valley Mobile Estates v. City of Morgan Hill.
Case Number:	United States Supreme Court 03-1571

5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority:	Government Code section 54956.9(a)
Case Name:	Hacienda Valley Mobile Estates v. City of Morgan Hill
Case Number:	Santa Clara Superior Court, Case No. CV 807708

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Chairman/Mayor adjourned the meeting to Closed Session at 9:37 P.M.

RECONVENE

Chairman/Mayor reconvened the meeting at 11:30 P.M.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced there were no reportable actions.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Regarding Item 12: The City Council continued the decision on the Third and Fourth recommended actions of the Implementation Plan of the Library Subcommittee Report to the meeting of July 21, 2004.

Regarding Item 14: The appointment of the 7-member Centennial Planning Committee is to be placed on the agenda for July 21, 2004.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 11:32 P.M.

MINUTES RECORDED AND PREPARED BY:

MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK